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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,633	03/28/2000	Toshihiro Ezaki	2000-0401A	5664
7590	12/05/2003			EXAMINER
Wenderoth Lind & Ponack LLP 2033 K Street NW Ste 800 Washington, DC 20006			POLLACK, MELVIN H	
			ART UNIT	PAPER NUMBER
			2141	
DATE MAILED: 12/05/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/536,633	EZAKI ET AL.
	Examiner Melvin H Pollack	Art Unit 2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 March 2000.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-35 is/are pending in the application.

  4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-35 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 28 March 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .	6) <input checked="" type="checkbox"/> Other: see attached office action .

## DETAILED ACTION

### *Drawings*

1. New corrected drawings are required in this application because none of the labels of any drawing are in American English, and because some parts appear to be hand modified, i.e. Fig. 17, #170N (was #1703). Further, several components are not numbered, i.e. Fig. 2, the boxes on the right connected to the boxes on the left. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance. Please note that the examiner will not respond to any amendment or remarks until the drawings are corrected, due to the extreme difficulty of examining the case.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 22, 23, 26, 29, 32, and 35 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Several components of the claim, such as "data management information", are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). It is unclear whether the data management information is like a header, a pointer or reference, a location address, or a text description or menu option. Likewise,

the relationship between the data management information and the said data is unclear, as is the definition of a predetermined node (predetermined by whom?).

4. Further, there are problems in the phrasing of claim 22. It is unclear whether the applicant means that a “predetermined node or said data management means manages...” or if it means that the examiner should find the limitations before said “or” which are the limitations of claim 1, or the limitations after the “or,” which is the data management information. Further confusing the issue is the “said predetermined node” reference in the last line of the claim, as there can be no predetermined node in an embodiment where said data management means manages the information, assuming the first issue. Further confusing the issue is the phrase “said data separately from said data.”

5. Claims 23, 26, 29, 32, and 35 inherit this deficiency. Furthermore, it is unclear whether, in claim 23, how the access to the data is performed. Is this a case where one node doesn’t know that the other deleted it? A case of data recovery? Or is it just that some menus hide certain options?

#### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-4, 14-19, 21 are rejected under 35 U.S.C. 102(e) as being anticipated by He (6,088,451).

8. For claim 1, He teaches a network management system (abstract) comprising
  - a. A plurality of nodes (Fig. 2, 102; col. 4, lines 1-5; user elements);
  - b. A recording medium apparatus for storing data (col. 4, lines 55-60; information and resources are stored in network elements);
  - c. Data management means for managing the data of said recording medium apparatus (Fig. 2, 104, network elements); and
  - d. Access management means for managing access to the data of said recording medium apparatus (Fig. 2, 208; col. 2, 12-25); wherein
  - e. Said plurality of nodes, said recording medium apparatus, said data management means, and said access management means are connected through a network (Fig. 2, #106).
9. Further, such configurations are well known in the art. To read on the independent claims, one needs only a set of client computers, a content server, and some sort of access server or gateway server, i.e. an ISP or authentication server. Therefore, the examiner suggests amending the independent claims to add more limitations, specifically further clarification of the functions and usage of these elements.
10. Claim 2 shares many of the limitations of claim 1, but adds access channel management means for managing access to data of said recording medium apparatus. He also adds this limitation (Fig. 2, 206).
11. For claim 3, He teaches that said nodes query said access management means, in accessing said recording medium apparatus, whether or not the access can be approved, and act in accordance with the response of said access management means (Fig. 5, 504-514).

12. For claim 14, He teaches that said node sends, in accessing said recording medium apparatus, an access request to said access management means, and upon receiving it, said access management means sends to said data management means a request for information pertaining to data or said recording medium apparatus, and upon receiving it, said access management means makes judgment as to whether or not to approve the access (Fig. 7).

13. For claim 16, He teaches that said access management means is provided in at least either one of said recording medium apparatus or said node (Fig. 1; col. 1, lines 35-45).

14. For claim 18, He teaches that data management means is provided in a node or a recording medium apparatus within a network (col. 4, lines 5-17).

15. For claim 21, He teaches that said access channel management means is provided with a function of controlling configuration and access state of a network connected to each port of said access channel management means (col. 14, line 45 – col. 15, line 10).

16. Claims 4, 15, 17, and 19 have the same limitations as claims 3, 14, 16, and 19, respectively. Since claims 3, 14, 16, and 19 are rejected, claims 4, 15, 17, and 19 are also rejected for the reasons above.

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 5-13, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over He as applied to claims 1-4, 14-19, 21 above, and further in view of Day et al. (5,996,025).

19. For claim 5, He teaches that the system is used for accessing user resources, of which bandwidth is usually seen in the art as a resource, but does not expressly disclose that said access management means is provided with an access state managing function for managing mode of access judgment, band of the network, and band of an interface of said recording medium apparatus. As shown above, He concentrates on managing mode of access judgment. Day teaches a system (see abstract) of bandwidth management (col. 2, line 55 – col. 3, line 3). At the time the invention was made, one of ordinary skill in the art would have added Day's bandwidth management system to He's authentication and resource/information access system in order to provide more resources, and to more efficiently deliver information such as real-time video streams (col. 2, lines 30-35).

20. For claim 7, He teaches that said access management means is provided with an access judgment function of judging, when an access request to data has been received from any one of the nodes, whether or not to approve the access based on information from said access state managing function, and sending back the result of judgment (Fig. 5, 504-514).

21. For claim 9, He teaches that said access management means is provided with a function of sending, when sending access approval as a result of judging whether or not to approve the access, said result of judgment after securing a transmission band for accessing (Fig. 6, esp. 604, 608).

22. For claim 11, Day teaches that said access management means controls said access channel management means (Fig. 2 and 3) and is provided with a function of establishing an access channel (Fig. 4, 440), a function of managing load status of the network (Fig. 5), and a function of acquiring said network load status as stored in said access channel management

means (Fig. 4, 410 and 420). The other source, He, does not expressly disclose these features. At the time the invention was made, one of ordinary skill in the art would have added Day's bandwidth management system to He's authentication and resource/information access system in order to provide more resources, and to more efficiently deliver information such as real-time video streams (col. 2, lines 30-35).

23. For claim 12, Day teaches that access management means is provided with a function in which a predetermined node secures in advance a transmission band required for access to a recording medium apparatus allocated to said predetermined node (col. 6, lines 5-20). The other source, He, does not expressly disclose these features. At the time the invention was made, one of ordinary skill in the art would have added Day's bandwidth management system to He's authentication and resource/information access system in order to provide more resources, and to more efficiently deliver information such as real-time video streams (col. 2, lines 30-35).

24. For claim 20, Day teaches that access management means is provided with a function of controlling access channel management means and cutting off access channel (col. 6, Table 1, msCloseSession under "Session Management"). The other source, He, does not expressly disclose these features. At the time the invention was made, one of ordinary skill in the art would have added Day's bandwidth management system to He's authentication and resource/information access system in order to provide more resources, and to more efficiently deliver information such as real-time video streams (col. 2, lines 30-35).

25. Claims 6, 8, 10, and 13 have the same limitations as claims 5, 7, 9, and 12 respectively. Therefore, since claims 5, 7, 9, and 12 are rejected, claims 6, 8, 10, and 13 are also rejected for the reasons above.

26. Claims 22-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over He as applied to claims 1-4, 14-19, 21 above, and further in view of Peters et al. (6,374,336).

27. Claim 22 has many of the same limitations as claim 1, but adds that a predetermined node or said data management means manages data management information on said data separately from said data thereby to allow deletion of only the data management information when said predetermined node deletes said data. The He reference concentrates on the authentication process and do not expressly disclose the details of their content servers and data disks. Peters teaches a system (abstract) that a predetermined node or said data management means (Fig. 1, 42) manages data management information on said data separately from said data (Fig. 1, 49; ) thereby to allow deletion of only the data management information when said predetermined node deletes said data (Fig. 7 and 8). It should also be noted that the typical method of deleting a file on a disk is to delete the pointer to that file, and the data remains until it is overwritten. Data recovery systems work by taking advantage of this by locating the file. A reference teaching this in further detail is available on request, but it is considered common knowledge to one of ordinary skill in the art. At the time the invention was made, one of ordinary skill in the art would have combined the two references in order to learn the implementation of the storage units and in order to better handle multimedia systems (col. 2, lines 3-5).

28. For claim 23, Peters teaches that access to the data deleted by a predetermined node is made accessible from a node other than said node (Fig. 25). The He reference does not expressly teach file recovery. At the time the invention was made, one of ordinary skill in the art would

have combined the two references so that a person would be able to reconstruct lost or damaged files.

29. For claim 26, Peters teaches that said recording medium apparatus is divided into video and audio sections each of which respectively using a separate file system (col. 22, lines 4-5). The He reference does not disclose this item. The examiner notes that both systems may be on the same storage entity. At the time the invention was made, one of ordinary skill in the art would have added a Peters split disk to He's system in order to produce a system which can transfer multiple, independent high-bandwidth streams of data in a scalable and reliable manner (col. 2, lines 52-60).

30. For claim 29, the reference He does not expressly disclose that said data management means is provided with a function of receiving newly generated management information each time writing or deleting of data on the recording medium apparatus is made, and internally reflecting it. Peters teaches this limitation (Fig. 3-4; esp. Fig. 3, 127). At the time the invention was made, one of ordinary skill in the art would have used the Peters reference to allow editing of the above information (col. 7, lines 1-15).

31. For claim 32, He teaches that said data management means is provided with functions of managing and of sending system configuration information of the network (Fig. 6, 608-612).

32. For claim 35, He teaches that said data management means is provided with a function of sending management information based on a request from a node (Fig. 6, 612).

33. Claims 24 and 25 have the same limitations as claim 26. Claims 27 and 28 have the same limitations as claim 29. Claims 30 and 31 have the same limitations as claim 32. Claims 33 and

34 have the same limitations as claim 35. Therefore, since claims 26, 29, 32 and 35 are rejected, claims 24, 25, 27, 28, 30, 31, 33 and 34 are also rejected for the reasons above.

***Conclusion***

34. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H Pollack whose telephone number is (703) 305-4641. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

MHP  
21 October 2003



RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER